IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAIPUR BENCH, JAIPUR

::JUDGMENT::

GHISA RAM VS. SIKAR CENTRAL CO-OPERATIVE BANK LTD. AND ORS.

D.B.CIVIL SPECIAL APPEAL (W) NO.1/2007 UNDER SECTION 18 OF THE RAJASTHAN HIGH COURT ORDINANCE 1949, AGAINST THE ORDER/JUDGMENT DATED 11.12.2006 PASSED IN SBCWP NO.9376/2006.

DATE OF JUDGMENT ::: 22.1.2007

PRESENT

HON'BLE MRS.GYAN SUDHA MISRA,J.
HON'BLE MR.K.C.SHARMA,J.

Mr. Hanuman Choudhary for the appellant.

BY THE COURT:

This appeal has been preferred against the order of the learned Single Judge who has been pleased to dismiss the writ petition refusing to entertain the plea of the petitioner who had sought a relief in the writ petition which was essentially seeking an order in the nature of an injunction.

To clarify the position it may be stated that the appellant herein had purchased a house from the respondent No.3-Naurang Lal on 2.5.2002 who was an employee of the Sikar Central Co-operative Bank.

According to the case of the appellant, he had absolutely no connection with the activities of the respondent No.3 and he had bonafide purchased the suit property and therefore the auction notice should not have been published in regard to the suit house which the appellant has purchased. The appellant therefore rushed to this High Court by filing a writ petition for quashing and setting aside the auction notice which has been refused to be interfered with by the learned Single Judge.

Having heard learned counsel for the petitioner/appellant herein, it could safely be inferred that the plea taken by the petitioner/appellant for quashing the auction notice cannot be straightway entertained in a writ petition as the relief sought is purely in the nature of injunction. The petitioner/ appellant herein therefore is at liberty to take recourse to the appropriate civil remedy by establishing his title to the suit house as also the fact that there is no charge in the property on account of respondent No.3 who perhaps was the title-holder of the suit house. Whether title has passed on to the petitioner/appellant herein by virtue of the sale-deed so as to quash the auction notice

obviously will have to be considered by the Court of competent jurisdiction.

The appellant therefore is at liberty to approach the appropriate Court for the required relief and for this purpose the auction notice shall not be given effect to for a period of four weeks from today. Thereafter any relief which is sought will have to be considered by the court of competent jurisdiction. The appeal stands dismissed subject to the aforesaid liberty.

(K.C.SHARMA)J. (GYAN SUDHA MISRA)J.

PCG